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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,947	12/31/2003	Jea-Yong Yoo	1630-0499PUS1	6216
2292 7590 01/15/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER CHEVALIER, ROBERT				
ART UNIT 2621		PAPER NUMBER		
NOTIFICATION DATE 01/15/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/747,947

Applicant(s)

YOO ET AL.

Examiner

ROBERT CHEVALIER

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group II, claims 6-20 in the reply filed on 4/2/08 is acknowledged. Applicant's presented arguments have been fully considered and are persuasive. The restriction requirement has been withdrawn.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,701,059.

Although the conflicting claims are not identical, and that the claimed language of the present Application is somewhat different from the language recited in the patented claims 1-20, however, they are not patentably distinct from each other because it is noted that it would have been obvious to one of ordinary skill in the art to recognize that

the patented claims 1-20, would be able to perform the functions of the claimed limitations of the present Application since the limitations recited in the claimed invention of the present Application are also recited in the patented claims. Note that the claimed limitation of "recording a received digital data unit across the remaining area of the predetermined recording unit and the next predetermined recording unit based upon checking whether the size of the remaining area of the recording unit is less than the length of the digital data unit" recited in claim 1 of the present Application is also present in the patented claim 1, and further, the claimed limitation of "calculating a number of the digital data units recorded in the predetermined recording unit in a start position of a first recorded digital unit recorded in the predetermined recording unit and recording the number of digital units and the start position of the first recorded digital data unit" as specified in claim 6 of the present Application is also present in the patented claims 15 and 19 of Patent No. 6,701,059.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 6-20 are rejected under 35 U.S.C. 102(a) as being anticipated by the admitted prior art Figures 1-3, described at page 2, paragraph [005] to page 4, paragraph [012], of the present Application .

The admitted prior art Figures 1-3, described at page 2, paragraph [005] to page 4, paragraph [012], of the present Application, discloses a digital data recording/reproducing apparatus that shows all the limitations recited in claims 6, 15, including the feature of receiving digital data from an external source (See the admitted prior art shown in Figure 1 of the present Application), the feature of dividing the received digital data into digital data units (See the admitted prior art shown in Figure 2, of the present Application), the feature of recording the received digital data units in a recording medium (See the admitted prior art shown in Figure 1, component 230, of the present Application), the feature of calculating and recording the number of digital data units and the start position of the first recorded data units as specified in the present claims 6, 15. (See the admitted prior art shown in Figure 3, field entitled: AP_PKT_Ns, START_of_STR, of the present Application).

With regard to claims 7, 14, and 16, the feature of the recording unit being of a size of 2048 bytes as specified thereof is present in the admitted prior art described at page 3, paragraph [010], line 4.

With regard to claims 8, 12, and 17, the feature of the recording medium being a digital video disk as specified thereof is present in the admitted prior art Figure 1, component 230, of the present Application.

With regard to claims 9, 13, and 20, the feature of the recording unit being padded with null data as specified thereof is present in the admitted prior art Figure 2, of the present Application.

With regard to claims 10, and 18, the feature of recording the number of digital data units and the start position of the first recorded data in the recording unit as specified thereof is present in the admitted prior art shown in Figure 3, field entitled: AP_PKT_Ns, START_of_STR, of the present Application.

With regard to claims 11, and 19, the feature of recording the number of digital data units and the start position of the first recorded data in the header information of the recording unit as specified thereof is present in the admitted prior art shown in Figure 3, field entitled: AP_PKT_Ns, START_of_STR, of the present Application

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mishima et al discloses digital data recording/reproducing apparatus including a plurality of sectors.

Fujiie et al discloses digital data recording/reproducing apparatus including a plurality of sectors and clusters on the recording medium.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT CHEVALIER whose telephone number is (571)272-7374. The examiner can normally be reached on MM-F (9:00-6:30), second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ROBERT CHEVALIER/
Primary Examiner, Art Unit 2621
January 9, 2009.